

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Michael L. Kathrein and	)	
Victoria Kathrein,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 08 C 83
	)	Honorable Ronald Guzman
City of Evanston, Illinois,	)	Magistrate Judge Sidney Schenkier
	)	Judges Presiding
Defendant.	)	

**DEFENDANTS' MOTION FOR EXTENSION OF TIME TO FILE  
RESPONSIVE PLEADINGS AND/OR MOTION**

Defendants, by their counsel, Jack M. Siegel and Iain D. Johnston, hereby move for an extension of time to file their responsive pleading and/or motion to Plaintiff's First Amended Complaint. In support of this motion, Defendants state the following.

1. On January 4, 2008, Plaintiffs, litigation *pro se*, filed their Complaint. The only defendant in the original complaint was the City of Evanston ("City").
2. On February 11, 2008, the City filed its Motion to Dismiss for Lack of Jurisdiction ("Motion").
3. On February 12, 2008, this Court entered a briefing schedule on the Motion, which required Plaintiffs to file their response to the Motion on March 4, 2008.
4. On March 4, 2008, instead of filing a response to the Motion, Plaintiffs filed their First Amended Complaint. The First Amended Complaint basically alleges the same claims, but challenges the constitutionality of 28 U.S.C. §1341 and names the Mayor of Evanston and nine (9) Aldermen as well as the City.

5. Under Rule 15, the City is required to file a response to the First Amended Complaint within ten (10) days. However, under Rule 5, the Plaintiffs are required to serve the newly added Defendants with the summons and First Amended Complaint.

6. On March 7, 2008, the undersigned agreed to accept service of the First Amended Complaint and asked for waivers of service for the newly named Defendants. The undersigned has yet to receive the waivers of service. Once the waivers of service are received, the newly named Defendants will request representation from the City and the undersigned will enter an appearance for them.

7. As newly named Defendants, the Mayor and Aldermen are entitled to sixty (60) days to file their responsive pleading and/or motion.

8. As a result of naming ten (10) new defendants, the City and the other defendants are placed on separate time lines to file their responsive pleading and/or motion.

9. To alleviate this problem, Defendants simply request that the date for responsive pleading and/or motion be set for all of the Defendants on the same date; namely, April 14, 2008.

10. Accordingly, the Defendants seek an extension of time until April 14, 2008 to file their responsive pleading and/or motion.

11. This motion is made in good faith and is not intended to unduly delay these proceedings. In fact, the newly named Defendants will be filing their responsive pleading and/or motion about thirty (30) days before they would be required to do so under Rule 5 when they waive service.

WHEREFORE, Evanston respectfully requests that this Court grant its motion for an extension of time to file responsive pleadings and motion.

Respectfully submitted,

City of Evanston,

s/ Iain D. Johnston

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